

ENTERED

March 26, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

KEVIN BERNARD DAVIS

Plaintiff.

VS.

MATAGORDA COUNTY, ET AL.

Defendants.

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CIVIL ACTION NO. 3:18–CV–00188

**ORDER ADOPTING MAGISTRATE JUDGE’S
MEMORANDUM AND RECOMMENDATION**

Pending before the Court is the Memorandum and Recommendation of United States Magistrate Judge Andrew Edison. Dkt. 65. This Court referred six motions to Judge Edison pursuant to 28 U.S.C. § 636(b)(1). *See* Dkt. 60

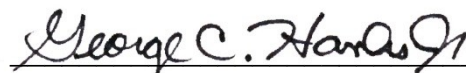
All defendants have filed Objections. *See* Dkts. 68, 70, 71. In accordance with 28 U.S.C. § 636(b)(1), this Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

Based on the pleadings, the record and the applicable law, the Court **ACCEPTS** Judge Edison’s Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- Judge Edison's Memorandum and Recommendation (Dkt. 65) is **APPROVED AND ADOPTED** in its entirety as the holding of the Court;
- Defendant Matagorda County's Motion to Dismiss (Dkt. 30) is **DENIED**; County Commissioner James Gibson's Motion to Dismiss Plaintiff's First Amended Complaint (Dkt. 31) is **GRANTED in part** and **DENIED in part**; Defendant, William David Anders', *in his official and individual capacities*, Motion to Dismiss Plaintiff's First Amended Complaint Pursuant to Rule 12(b)(6) and Based on Qualified Immunity (Dkt. 32) is **GRANTED in part** and **DENIED in part**; and Defendants' Joint Motion to Stay Discovery (Dkt. 33) is **DENIED as moot**;
- Specifically, (i) the First Amendment retaliation claim brought against Anders be dismissed because he is entitled to qualified immunity; (ii) the race discrimination claim brought against Commissioner Gibson under Section 1981 be dismissed; (iii) the hostile work environment claim brought against Commissioner Gibson under Section 1981 be dismissed; (iv) Defendants' Joint Motion to Stay Discovery be denied as moot; and (v) in all other respects, Defendants' motions to dismiss be denied; and
- In the interest of clarity, the following claims survive this ruling: (1) all claims against the County; (2) hostile work environment (Section 1981 and Equal Protection Clause) against Anders (individual capacity); (3) race discrimination (Section 1981 and Equal Protection Clause) against Anders (individual capacity); (4) race discrimination against Commissioner Gibson (Equal Protection Clause) (individual capacity); (5) hostile work environment against Commissioner Gibson (Equal Protection Clause) (individual capacity); and (6) First Amendment retaliation against Commissioner Gibson (individual capacity).

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 26th day of March, 2019.



George C. Hanks Jr.
United States District Judge